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SENATE BILL 1113

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

JOSEPH A. FIDEL

AN ACT

RELATING TO WASTEWATER FACILITIES; AMENDING THE WASTEWATER FACILITY CONSTRUCTION LOAN ACT; TRANSFERRING THE ADMINISTRATION OF THE WASTEWATER FACILITY CONSTRUCTION LOAN ACT AND FUND TO THE NEW MEXICO FINANCE AUTHORITY; AMENDING CERTAIN SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 74-6A-3 NMSA 1978 (being Laws 1986, Chapter 72, Section 3, as amended) is amended to read:

"74-6A-3. DEFINITIONS.--As used in the Wastewater Facility Construction Loan Act:

A. "authority" means the New Mexico finance authority;

[A-] B. "commission" means the water quality control commission;

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1                   ~~[B. "division" means the environmental improvement~~  
2 ~~division of the health and environment department;]~~

3                   C. "department" means the department of environment:

4                   ~~[C.]~~ D. "financial assistance" means loans, the  
5 purchase or refinancing of existing local political subdivision  
6 obligations, loan guarantees, credit enhancement techniques to  
7 reduce interest on loans and bonds, bond insurance and bond  
8 guarantees or any combination of these purposes;

9                   ~~[D.]~~ E. "fund" means the wastewater facility  
10 construction loan fund;

11                   ~~[E.]~~ F. "local authority" means any municipality,  
12 county, incorporated county, sanitation district, water and  
13 sanitation district or any similar district, recognized Indian  
14 tribe or other issuing agency created pursuant to a joint powers  
15 agreement acting on behalf of any entity listed in this  
16 subsection;

17                   ~~[F.]~~ G. "operate and maintain" means to perform all  
18 necessary activities, including replacement of equipment or  
19 appurtenances, to assure the dependable and economical function  
20 of a wastewater facility in accordance with its intended  
21 purpose;

22                   ~~[G.]~~ H. "wastewater facility" means a publicly owned  
23 system for treating or disposing of sewage or wastes either by  
24 surface or underground methods, including any equipment, plant,  
25 treatment works, structure, machinery, apparatus or land, in any

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1 combination, that is acquired, used, constructed or operated for  
2 the storage, collection, reduction, recycling, reclamation,  
3 disposal, separation or treatment of water or wastes or for the  
4 final disposal of residues resulting from the treatment of water  
5 or wastes, such as pumping and ventilating stations, facilities,  
6 plants and works, outfall sewers, interceptor sewers and  
7 collector sewers and other real or personal property and  
8 appurtenances incident to their use or operation. "Wastewater  
9 facility" also includes a nonpoint source water pollution  
10 control project as eligible under the ~~[federal]~~ Clean Water Act  
11 ~~[of 1977]~~;

12 ~~[H.]~~ I. "account" means the wastewater suspense  
13 account;

14 ~~[I. "board" means the state board of finance;]~~

15 J. "bonds" means wastewater bonds or other  
16 obligations ~~[authorized by the commission to be]~~ issued by the  
17 ~~[board]~~ authority pursuant to the Wastewater Facility  
18 Construction Loan Act;

19 K. "Clean Water Act" means the federal Clean Water  
20 Act of 1977 and its subsequent amendments or successor  
21 provisions; and

22 ~~[L. "federal securities" means direct obligations of~~  
23 ~~the United States, or obligations the principal and interest of~~  
24 ~~which are unconditionally guaranteed by the United States, or an~~  
25 ~~ownership interest in either of the foregoing;]~~

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1           ~~[M-]~~ L. "force account construction" means  
2 construction performed by the employees of a local authority  
3 rather than through a contractor.

4           ~~[N. "holders" means persons who are owners of bonds,~~  
5 ~~whether registered or not, issued pursuant to the Wastewater~~  
6 ~~Facility Construction Loan Act;~~

7           ~~O. "issuing resolution" means a formal statement~~  
8 ~~adopted by the board to issue bonds pursuant to the Wastewater~~  
9 ~~Facility Construction Loan Act, including any trust agreement,~~  
10 ~~trust indenture or similar instrument providing terms and~~  
11 ~~conditions for the bonds to be issued; and~~

12           ~~P. "recommending resolution" means a formal~~  
13 ~~statement adopted by the commission recommending to the board~~  
14 ~~that bonds be issued pursuant to the Wastewater Facility~~  
15 ~~Construction Loan Act, including any trust agreement, trust~~  
16 ~~indenture or similar instrument providing the terms and~~  
17 ~~conditions for the bonds that are issued.]"~~

18           Section 2. Section 74-6A-4 NMSA 1978 (being Laws 1991,  
19 Chapter 172, Section 4) is amended to read:

20           "74-6A-4. FUND CREATED--ADMINISTRATION.--

21           A. There is created in the [~~state treasury~~]  
22 authority a revolving loan fund to be known as the "wastewater  
23 facility construction loan fund", which shall be administered by  
24 the [~~division as agent for the commission~~] authority and  
25 operated as a separate account. The [~~commission~~] authority is

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1 authorized to establish procedures [~~and adopt regulations as~~  
2 required to administer the fund in accordance with the Clean  
3 Water Act and state law. [~~Any regulations relating to the~~  
4 ~~issuance of bonds and the expenditure of proceeds of bond issues~~  
5 ~~shall be approved by the board.~~] The [commission] authority  
6 shall, whenever possible, coordinate application procedures and  
7 funding cycles with the New Mexico Community Assistance Act.

8 B. The following shall be deposited directly in the  
9 fund:

10 (1) grants from the federal government or its  
11 agencies allotted to the state for capitalization of the fund;

12 (2) funds as appropriated by the legislature to  
13 implement the provisions of the Wastewater Facility Construction  
14 Loan Act or to provide state matching funds that are required by  
15 the terms of any federal grant under the Clean Water Act;

16 (3) loan principal, interest and penalty  
17 payments if required by the terms of any federal grant under the  
18 Clean Water Act;

19 (4) money transferred from the account as  
20 needed to fulfill requirements of the Clean Water Act; and

21 (5) any other public or private money dedicated  
22 to the fund.

23 C. Money in the fund is appropriated for expenditure  
24 by the [commission] authority in a manner consistent with the  
25 terms and conditions of the federal capitalization grants and

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1 the Clean Water Act and may be used:

2 (1) to provide loans for the construction or  
3 rehabilitation of wastewater facilities;

4 (2) to purchase, refund or refinance  
5 obligations incurred by local authorities in the state for  
6 wastewater facilities where the obligations were incurred and  
7 construction commenced after March 7, 1985;

8 (3) to guarantee, or purchase insurance for,  
9 obligations of local authorities to improve credit market access  
10 or reduce interest rates;

11 (4) to provide a source of revenue or security  
12 for the payments of principal and interest on bonds [~~recommended~~  
13 ~~by the commission and~~] issued by the [~~board~~] authority if the  
14 proceeds of the bonds are deposited in the fund or if the  
15 proceeds of the bonds are used to make loans to local  
16 authorities to the extent provided in the terms of the federal  
17 grant;

18 (5) to provide loan guarantees for similar  
19 revolving funds established by local authorities;

20 (6) to fund the administrative expenses of the  
21 [~~board, the commission and the division~~] authority necessary to  
22 implement the provisions of the Wastewater Facility Construction  
23 Loan Act, including but not limited to costs of servicing loans  
24 and issuing bonds, fund start-up costs, financial management and  
25 legal consulting fees and reimbursement costs for support

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1 services from other state agencies; and

2 (7) to fund other programs for which the  
3 federal government authorizes use of wastewater grants or to  
4 provide for any other expenditure consistent with the Clean  
5 Water Act grant program and state law.

6 D. Pursuant to ~~[regulations adopted by]~~ its  
7 procedures the ~~[commission, the division]~~ authority may impose  
8 and collect a fee from each local authority that receives  
9 financial assistance from the fund, which fee shall be used  
10 solely for the costs of administering the fund.

11 E. Money not currently needed for the operation of  
12 the fund or otherwise dedicated may be invested according to the  
13 provisions of ~~[Chapter 6, Article 10 NMSA 1978]~~ the New Mexico  
14 Finance Authority Act and all interest earned on such  
15 investments shall be credited to the fund. Money remaining in  
16 the fund at the end of any fiscal year shall not revert to the  
17 general fund but shall accrue to the credit of the fund.

18 F. ~~[Acting as agent for the commission, the~~  
19 ~~division]~~ The authority shall maintain full authority for the  
20 operation of the fund in accordance with applicable federal and  
21 state law, including but not limited to ~~[preparing the annual~~  
22 ~~intended use plan and]~~ ensuring that loan recipients are on the  
23 state priority list or otherwise satisfy Clean Water Act  
24 requirements.

25 G. The ~~[division]~~ authority shall establish fiscal

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1 controls and accounting procedures that are sufficient to assure  
2 proper accounting for fund payments, disbursements and balances  
3 and shall provide an annual report and an annual independent  
4 audit on the fund to the governor and to the United States  
5 environmental protection agency as required by the Clean Water  
6 Act.

7 H. The balance of the fund shall be transferred from  
8 the state treasurer to the authority upon the effective date of  
9 this 1997 act.

10 I. All loans held by the division and the department  
11 shall be transferred on the effective day of this 1997 act to  
12 the authority."

13 Section 3. Section 74-6A-7 NMSA 1978 (being Laws 1991,  
14 Chapter 172, Section 5) is amended to read:

15 "74-6A-7. LOAN PROGRAM - ADMINISTRATION. --

16 A. The [~~division~~] authority shall establish a  
17 program to provide financial assistance to local authorities,  
18 individually or jointly, for acquisition, construction or  
19 modification of wastewater facilities. The [~~division as agent~~  
20 ~~of the commission~~] authority is authorized to enter into  
21 contracts and other agreements to carry out the provisions of  
22 the Wastewater Facility Loan Construction Act, including [~~but~~  
23 ~~not limited to~~] contracts, memoranda of understanding and  
24 agreements with federal agencies, the department, the  
25 commission, local authorities and other parties.

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1           B. The commission shall adopt a system for the  
2 ranking of wastewater facility construction projects for  
3 financial assistance. The department shall prepare a priority  
4 listing of projects using the commission's ranking system and  
5 submit the list to the authority."

6           Section 4. Section 74-6A-8 NMSA 1978 (being Laws 1991,  
7 Chapter 172, Section 6) is amended to read:

8           "74-6A-8. FINANCIAL ASSISTANCE--CRITERIA. --

9           A. Financial assistance shall be provided only to  
10 local authorities that:

11                   (1) meet the requirements for financial  
12 capability set by the ~~[division]~~ authority to assure sufficient  
13 revenues to operate and maintain the wastewater facility for its  
14 useful life and to repay the financial assistance;

15                   (2) agree to operate and maintain the  
16 wastewater facility so that the facility will function properly  
17 over its structural and material design life;

18                   (3) agree to maintain separate project  
19 accounts, to maintain project accounts properly in accordance  
20 with generally accepted governmental accounting standards and to  
21 conduct an audit of the project's financial records;

22                   (4) provide a written assurance, signed by an  
23 attorney, that the local authority has or will acquire proper  
24 title, easements and rights-of-way to the property upon or  
25 through which the wastewater facility proposed for funding is to

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1 be constructed or extended;

2 (5) require the contractor of the wastewater  
3 facility construction project to post a performance and payment  
4 bond in accordance with the requirements of Section 13-4-18 NMSA  
5 1978 and its subsequent amendments and successor provisions;

6 (6) provide a written notice of completion and  
7 start of operation of the wastewater facility;

8 (7) appear on the priority list of the fund,  
9 regardless of rank on such list; and

10 (8) provide such information to the [~~division~~]  
11 authority as [~~required by the commission~~] it requires in order  
12 to comply with the provisions of the Clean Water Act and state  
13 law.

14 B. Loans shall be made only to local authorities  
15 that establish one or more dedicated sources of revenue to repay  
16 the money received from the [~~commission~~] authority and to  
17 provide for operation, maintenance and equipment replacement  
18 expenses. A local authority, any existing statute to the  
19 contrary notwithstanding, may do any of the following:

20 (1) obligate itself to pay to the [~~commission~~]  
21 authority at periodic intervals a sum sufficient to provide all  
22 or any part of bond debt service with respect to the bonds  
23 [~~recommended by the commission and~~] issued by the [~~board~~]  
24 authority to fund the loan for the wastewater facility project  
25 of the local authority and pay over the debt service to the

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1 account of the wastewater facility project for deposit to the  
2 fund;

3 (2) fulfill any obligation to pay the  
4 [~~commission~~] authority by the issuance of bonds, notes or other  
5 obligations in accordance with the laws authorizing issuance of  
6 local authority obligations; provided however that,  
7 notwithstanding the provisions of Sections 4-54-3 or 6-15-5 NMSA  
8 1978 or other statute or law requiring the public sale of local  
9 authority obligations, such obligations may be sold at private  
10 sale to the [~~commission~~] authority at the price and upon the  
11 terms and conditions the local authority shall determine;

12 (3) levy, collect and pay over to the  
13 [~~commission~~] authority and obligate itself to continue to levy,  
14 collect and pay over to the [~~commission~~] authority the proceeds  
15 of one or more of the following:

16 (a) sewer or waste disposal service fees  
17 or charges;

18 (b) licenses, permits, taxes and fees;

19 (c) special assessments on the property  
20 served or benefited by the wastewater facility project; [~~and~~] or

21 (d) other revenue available to the local  
22 authority;

23 (4) undertake and obligate itself to pay its  
24 contractual obligation to the [~~commission~~] authority solely from  
25 the proceeds from any of the sources specified in Paragraph (3)

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1 of this subsection or, in accordance with the laws authorizing  
2 issuance of local authority obligations, impose upon itself a  
3 general obligation pledge to the [~~commission~~] authority  
4 additionally secured by a pledge of any of the sources specified  
5 in Paragraph (3) of this subsection; [~~and~~] or

6 (5) enter into agreements, perform acts and  
7 delegate functions and duties as its governing body shall  
8 determine is necessary or desirable to enable the [~~division as~~  
9 ~~agent for the commission~~] authority to fund a loan to the local  
10 authority to aid it in the construction or acquisition of a  
11 wastewater facility project.

12 C. Each loan made by the [~~division as agent for the~~  
13 ~~commission~~] authority shall provide that repayment of the loan  
14 shall begin not later than one year after completion of  
15 construction of the wastewater facility project for which the  
16 loan was made and shall be repaid in full no later than twenty  
17 years after completion of the construction. All principal and  
18 interest on loan payments shall be deposited in the fund.

19 D. Financial assistance shall be made with an annual  
20 subsidized interest rate to be [~~five percent or less~~] as  
21 determined by the [~~commission~~] authority and in accordance with  
22 the authority's adopted procedures.

23 E. A zero-percent interest rate may be approved by  
24 the [~~division~~] authority when the following conditions have been  
25 met by the local authority:

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1 (1) the local authority's average user cost is  
2 at least fifteen dollars (\$15.00) per month or a higher amount  
3 as determined by the [~~commission~~] authority; and

4 (2) the local authority's median household  
5 income is less than [~~three-fourths~~] a percentage of the  
6 statewide nonmetropolitan median household income as determined  
7 by the authority's procedures.

8 F. A local authority may use the proceeds from  
9 financial assistance received under the Wastewater Facility  
10 Construction Loan Act to provide a local match or any other  
11 nonfederal share of a wastewater facility construction project  
12 as allowed pursuant to the Clean Water Act.

13 G. Financial assistance received pursuant to the  
14 Wastewater Facility Construction Loan Act shall not be used by a  
15 local authority on any wastewater facility project constructed  
16 in fulfillment or partial fulfillment of requirements made of a  
17 subdivider under the provisions of the Land Subdivision Act or  
18 the New Mexico Subdivision Act.

19 H. Financial assistance shall be made only to local  
20 authorities that employ or contract with a registered  
21 professional engineer to provide and be responsible for  
22 engineering services on the wastewater facility project. Such  
23 services include but are not limited to an engineering report,  
24 construction contract documents, supervision of construction and  
25 start-up services.

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1 I. Financial assistance shall be made only for  
2 eligible items. For financial assistance composed entirely of  
3 state funds, eligible items include but are not limited to the  
4 costs of engineering feasibility reports, contracted engineering  
5 design, inspection of construction, special engineering  
6 services, start-up services, contracted construction, materials  
7 purchased or equipment leased for force account construction,  
8 land or acquisition of existing facilities, but eligible items  
9 do not include the costs of water rights and local authority  
10 administrative costs. For financial assistance made from  
11 federal funds, eligible items are those identified pursuant to  
12 the Clean Water Act.

13 J. In the event of default by the local authority,  
14 the [~~commission~~] authority may enforce its rights by suit or  
15 mandamus or may utilize all other available remedies under state  
16 law. "

17 Section 5. Section 74-6A-9 NMSA 1978 (being Laws 1991,  
18 Chapter 172, Section 7) is amended to read:

19 "74-6A-9. [~~COMMISSION~~] AUTHORITY - - POWERS. - -

20 A. In administering the Wastewater Facility  
21 Construction Loan Act, the [~~commission~~] authority shall have the  
22 following powers [~~which may be implemented by the division, in~~  
23 ~~addition to those specified in the Water Quality Act~~]:

24 (1) to provide financial assistance to local  
25 authorities to finance all or part of a wastewater facility,

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1 including all forms of assistance for which the fund may be used  
2 pursuant to the Wastewater Facility Construction Loan Act;

3 ~~[(2) to adopt recommending resolutions~~  
4 ~~recommending that the board issue bonds or refunding bonds~~  
5 ~~pursuant to the provisions of the Wastewater Facility~~  
6 ~~Construction Loan Act;~~

7 (3)] (2) to execute agreements concerning state  
8 contributions to the fund made pursuant to the Clean Water Act,  
9 including obligating [the commission] itself to pay a portion of  
10 the estimated reasonable cost of a wastewater facility of a  
11 local authority as may be required to meet the water quality  
12 goals of the Clean Water Act and the state;

13 [(4)] (3) to foreclose upon, attach or condemn  
14 any wastewater facility, property or interest in the facility  
15 pledged, mortgaged or otherwise available as security for a  
16 project financed in whole or in part pursuant to the Wastewater  
17 Facility Construction Loan Act in the event of a default by a  
18 local authority;

19 [(5)] (4) to acquire and hold title to or  
20 leasehold interest in real and personal property and to sell,  
21 convey or lease that property for the purpose of satisfying a  
22 default or enforcing the provisions of a loan agreement;

23 [(6) through its agent the division] (5) to  
24 manage the fund, to grant and administer financial assistance to  
25 local authorities and to apply for and accept grants, including

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1 but not limited to capitalization grant awards made to the state  
2 in accordance with the Clean Water Act and the Wastewater  
3 Facility Construction Loan Act;

4 [~~(7)~~] (6) to appoint and employ attorneys,  
5 financial advisors, underwriters and other experts and agents  
6 and employees as the business of the [~~commission~~] authority may  
7 require;

8 [~~(8)~~] (7) to sue or be sued and to prosecute  
9 and defend, at law or in equity, in any court having  
10 jurisdiction over the subject matter and the parties to the  
11 matter;

12 [~~(9)~~] (8) to collect application, origination  
13 and administrative fees from the local authority, the total of  
14 which for any loan shall not exceed four percent of the value of  
15 the loan requested or authorized;

16 [~~(10)~~] (9) to adopt [~~regulations~~] procedures  
17 necessary and appropriate to implement the provisions of the  
18 Wastewater Facility Construction Loan Act; and

19 [~~(11)~~] (10) to have and exercise all the rights  
20 and powers necessary, incidental to or implied from the specific  
21 powers enumerated in this section.

22 B. Specific powers enumerated in this section shall  
23 not limit any power necessary or appropriate to carry out the  
24 purposes and intent of the Wastewater Facility Construction Loan  
25 Act.

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1 C. The ~~[commission]~~ authority shall use accounting,  
2 audit and fiscal procedures conforming to generally accepted  
3 government accounting standards ~~[and shall otherwise prepare~~  
4 ~~audits and budgets in accordance with state law. The fiscal~~  
5 ~~year of the commission shall coincide with the fiscal year of~~  
6 ~~the state]~~ with respect to the fund.

7 D. The ~~[commission]~~ authority shall deliver an  
8 annual report during the first week of each regular session of  
9 the legislature on the status of the wastewater facility  
10 construction loan program and the fund to the governor and  
11 legislature.

12 E. The authority shall have the power to issue bonds  
13 or refunding bonds pursuant to the New Mexico Finance Authority  
14 Act and the Wastewater Facility Construction Loan Act when the  
15 authority determines that a bond issue is required or desirable  
16 to implement the provisions of the Wastewater Facility  
17 Construction Loan Act.

18 F. As security for the payment of the principal and  
19 interest on bonds issued by the authority, the authority is  
20 authorized to pledge, transfer and assign:

21 (1) any obligations of each local authority,  
22 payable to the authority;

23 (2) the security for the local authority  
24 obligations;

25 (3) any grant, subsidy or contribution from the

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1 United States or any of its agencies or instrumentalities; or  
2 (4) any income, revenues, funds or other money  
3 of the authority from any other source appropriated or  
4 authorized for use for the purpose of implementing the  
5 provisions of the Wastewater Facility Construction Loan Act,  
6 including the fund.

7 G. The bonds and other obligations issued by the  
8 authority shall be issued and delivered in accordance with the  
9 provisions of the New Mexico Finance Authority Act and may be  
10 sold at any time the authority determines appropriate. The  
11 authority may apply the proceeds of the sale of the bonds to:

12 (1) the purposes of the Wastewater Facility  
13 Construction Loan Act or the purposes for which the fund may be  
14 used;

15 (2) the payment of interest on bonds issued by  
16 the authority for a period not to exceed three years from the  
17 date of issuance of the bonds; and

18 (3) the payment of all expenses, including  
19 publication and printing charges, attorney fees, financial  
20 advisory and underwriter fees and premiums or commissions that  
21 the authority determines are necessary or advantageous in  
22 connection with the recommendation, advertisement, sale,  
23 creation and issuance of bonds.

24 H. In the event that funds are not available for a  
25 loan for a drinking water facility project when application is

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1 made, in order to accelerate the completion of any drinking  
2 water facility project, the local authority may, with the  
3 approval of the authority, obligate such local authority to  
4 provide local funds to pay that portion of the cost of the  
5 drinking water facility project that the authority agrees to  
6 make available by loan, and the authority may reimburse the  
7 amount expended on its behalf by the local authority.

8 I. Authority members or employees and any person  
9 executing bonds issued pursuant to the New Mexico Finance  
10 Authority Act and the Wastewater Facility Construction Loan Act  
11 shall not be liable personally on such bonds or be subject to  
12 any personal liability or accountability by reason of the  
13 issuance thereof.

14 J. All bonds, notes and certificates issued by the  
15 authority shall be special obligations of the authority, payable  
16 solely from the revenue, income, fees or charges that may,  
17 pursuant to the provisions of the New Mexico Finance Authority  
18 Act and the Wastewater Facility Construction Loan Act, be  
19 pledged to the payment of such obligations, and the bonds, notes  
20 or certificates shall not create an obligation, debt or  
21 liability of the state. No breach of any pledge, obligation or  
22 agreement of the authority shall impose a pecuniary liability  
23 upon the state or a charge upon its general credit or taxing  
24 power."

25 Section 6. Section 74-6A-13 NMSA 1978 (being Laws 1991,

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1 Chapter 172, Section 11) is amended to read:

2 "74-6A-13. AGREEMENT OF THE STATE NOT TO LIMIT OR ALTER  
3 RIGHTS OF OBLIGEES. --The state [~~hereby~~] pledges to and agrees  
4 with the holders of any bonds or other obligations issued under  
5 the Wastewater Facility Construction Loan Act and with those  
6 parties who enter into contracts with the ~~commission~~ or with the  
7 [~~division~~] authority pursuant to the provisions of the  
8 Wastewater Facility Construction Loan Act that the state shall  
9 not limit, alter, restrict or ~~impair~~ the rights vested in the  
10 [~~commission~~] authority to fulfill the terms of agreements made  
11 with the holders of bonds or other obligations recommended and  
12 issued pursuant to the Wastewater Facility Construction Loan Act  
13 and with the parties who may enter into contracts with a local  
14 authority, the ~~commission~~ or the authority pursuant to the  
15 Wastewater Facility Construction Loan Act and that the state  
16 shall not limit, alter, restrict or ~~impair~~ the rights vested in  
17 a local authority or in the ~~commission~~ or the [~~board or the~~  
18 ~~division~~] authority to fulfill the terms of contracts made with  
19 the ~~commission~~ or the [~~board~~] authority and with parties who  
20 enter into contracts with such local authorities or with the  
21 [~~division acting as agent of the commission~~] authority pursuant  
22 to the Wastewater Facility Construction Loan Act. The state  
23 further agrees that it shall not in any way ~~impair~~ the rights or  
24 remedies of the holders of such bonds or other obligations of  
25 such parties until such bonds and other obligations, together

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1 with interest thereon, with interest on any unpaid installment  
2 of interest and all costs and expenses in connection with any  
3 action or proceeding by or on behalf of such holders, are fully  
4 met and discharged and such contracts are fully performed on the  
5 part of the commission, [~~the board,~~] the local authorities or  
6 the [~~division acting as agent of the commission~~] authority.

7 Nothing in this subsection precludes such limitation or  
8 alteration if and when adequate provision is made by law for the  
9 protection of the holders of bonds or other obligations  
10 [~~recommended by the commission and~~] issued by the [~~board~~]  
11 authority or those entering into such contracts with the  
12 commission, or the commission under any contract with a local  
13 authority, or with the [~~division acting as agent for the~~  
14 ~~commission~~] authority. The commission or the [~~board~~] authority  
15 may include this pledge and undertaking for the state or the  
16 authority in such bonds or other obligations and in such  
17 contracts. "

18 Section 7. REPEAL. -- Section 74-6A-10 through 74-6A-12 NMSA  
19 1978 (being Laws 1991, Chapter 172, Sections 8 through 10) are  
20 repealed.